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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

10007291-1

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on December 9, 2005

Signature

Kathleen Klinkhammer

Typed or printed name

Kathleen Klinkhammer

Application Number

09/852,360

Filed

05/09/2001

First Named Inventor

Kumar et al.

Art Unit

2137

Examiner

Williams, J.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 35,274☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

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December 9, 2005

Date

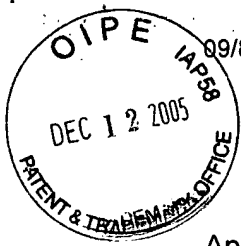
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

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09/852,360

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: KUMAR *et al.* Examiner: Williams, J.
Serial No.: 09/852,360 Group Art Unit: 2137
Filed: May 9, 2001 Docket No.: 10007291-1
(HPCO.038PA)
Title: SESSION MANAGEMENT FOR WIRELESS E-COMMERCE

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence and the papers, as described hereinabove, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on December 9, 2005.

By: 
Kathleen Klinkhammer

PRE-APPEAL CONFERENCE BRIEF

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Brief is submitted for the Pre-appeal Conference requested in the Notice of Appeal with which this Brief is submitted.

Grounds of Rejection

- A. Claims 1-5 and 10-13 stand rejected under 35 USC §102(a) as being anticipated by "Aziz" (US Patent No. 6,643,701 to Aziz *et al.*).
- B. Claims 6-9 stand rejected under 35 USC §103(a) as being unpatentable over Aziz in view of "Sparks" (US patent No. 6,167,382).

Argument

The arguments presented in the Response dated June 15, 2005 are maintained in this Brief and incorporated by reference.

- A. The rejection of claims 1-5 and 10-13 should be reversed because the Examiner has not shown that Aziz teaches all the limitations of the claims.**

Claims 1, 2, 3, 4, 11, 12, and 13.

Claim 1 is directed to a method for managing sessions between mobile communication devices and an application program hosted on a data processing system with a gateway module that is coupled to the mobile communications

devices and to the application program. The method includes generating at the gateway module respective first session identifiers upon receipt of initial requests from the mobile communication devices at the gateway module and transmitting the first session identifiers to the application program; associating the first session identifiers with corresponding second session identifiers from the application program at the gateway module; and in response to subsequent communications from the mobile devices to the application program, transmitting from the gateway module to the application program the second session identifiers that are associated with the first session identifiers of the mobile devices of the subsequent communications. These limitations are clearly not shown to be taught by Aziz.

Applicants maintain that Aziz' session keys do not reasonably correspond to the claimed first session identifier and second session identifier as explained in the Response dated June 15, 2005. Furthermore, even if the alleged correspondence were reasonable, the Examiner failed to show that Aziz teaches the limitations of, in response to subsequent communications from the mobile devices to the application program, transmitting from the gateway module to the application program the second session identifiers that are associated with the first session identifiers of the mobile devices of the subsequent communications. Aziz's teachings at col. 2, l. 56-65 and col. 8, l. 28-32, and 48-56 are cited as teaching these limitations. However, these teachings do not suggest transmitting the second session identifiers. The cited portions of Aziz apparently teach that in initiating a session resumption, a client may identify itself to the server and indicate that it will continue to use the agreed upon keys from the previous handshaking. Thus, Aziz has no apparent need for, or suggestion of, transmitting a second session identifier associated with a first session identifier from the client to the server.

The Examiner asserts that Aziz's session keys correspond to the claimed first session identifier and second session identifier. However, Aziz's session keys do not identify a session. Rather, Aziz clearly teaches that a session key is used to securely transmit information within a session. The Examiner incorrectly asserts that "One particular session of communication, out of many sessions, may be identified by the product of the key and the encrypted communications." This assertion is incorrect because the server must first determine which of the session keys to use for decryption before it can decrypt the data it receives. Aziz is understood to not

receive an encryption key along with encrypted data. Thus, Aziz apparently uses some other mechanism to determine the correct session key before decrypting the received data. Furthermore, the Examiner's analogy of using a key to unlock a door to reveal an object behind a door fails establish a correspondence of Aziz' session keys to the claimed first and second session identifiers.

Aziz' session keys are used to decrypt data within session. But the session keys alone do not identify the sessions. Decrypted data within a session does not identify the session. For example, if there are multiple transmissions of different data sets within a session the session would not reasonably be understood to have multiple identities. Therefore, Aziz's session keys are not shown to correspond to the claimed first and second session identifiers, nor is Aziz's use of session keys shown to correspond to the claimed use of the first and second identifiers.

Claims 2 and 3 depend from claim 1 and are not shown to be anticipated for at least the reasons set forth above. Claim 4 is an apparatus claim and claim 11 is a system claim, each including functional limitations similar to those of claim 1. Thus, claims 4 and 11 are not shown to be anticipated for at least the reasons set forth above. Claims 12 and 13 depend from claim 11 and are not shown to be anticipated for at least the reasons set forth above.

Claims 5 and 10.

Claim 5 is an independent method claim that includes the limitations of claim 1 along with additional limitations of wireless session identifiers and merchant session identifiers. These additional limitations are not addressed in the Office Actions and are not understood to be suggested by the cited prior art. Therefore, claim 5 is not shown to be anticipated. Claim 10 is an apparatus claim that includes functional limitations similar to those of claim 5. Thus, claim 10 is not shown to be anticipated by Aziz.

The rejection of claims 1-5 and 10-13 should be reversed because the alleged correspondences of Aziz teachings to the claim limitations are clearly in error.

B. The rejection of claims 6-9 should be reversed because the Examiner has not established a *prima facie* case of obviousness with the Aziz-Sparks combination.

The Examiner's alleged correspondences of elements of the Aziz-Sparks combination to the claim limitations are clearly in error. In addition, the Examiner

omitted an element needed for a *prima facie* case of obviousness by failing to provide evidence that supports making the Aziz-Sparks combination.

Claims 6 and 7

Among other limitations claim 6 includes limitations of receiving checkout requests from the wireless communication devices at the gateway module and transferring the checkout requests to a wallet module that manages user authentication. The Examiner cited Sparks' col. 2, l. 36-49. However, there is no apparent element in this portion of Sparks that corresponds to the gateway module at which checkout requests are received. Nor is there any apparent element that corresponds to the claimed wallet module to which the checkout requests are sent. Thus, the limitations of claim 6 are not shown to be suggested by the Aziz-Sparks combination.

The alleged motivation for combining Sparks with Aziz is unsupported by evidence and improper. The alleged motivation states that "it would have been obvious ... to combine electronic commerce features, such as those disclosed by Sparks, with the generic system of Aziz for establishing communications because it is obvious that a generic system designed to enhance electronic commerce (Aziz, col. 1, lines 42-47) would need to features to enable electronic commerce." There is no evidence presented to indicate that Spark's teachings are needed in Aziz as the alleged motivation states. Furthermore, the Examiner fails to provide any evidence that alternatives to Sparks' teachings would not work with Aziz. Thus, the Examiner has failed to show that Sparks' teachings are needed in Aziz as alleged, and the alleged motivation fails to support a *prima facie* case of obviousness.

Claim 7 depends from claim 6 and is not shown to be unpatentable for at least the reasons set forth above.

Claims 8 and 9

Claim 8 depends from claim 7 and includes further limitations of: in response to a payment request from a wireless communications device, transmitting the payment request from the gateway module to the merchant application, disassociating the wireless session identifier from the corresponding merchant session identifier, and generating a new wireless session identifier for the wireless communications device when another initial request is received from the wireless communications device. The cited teachings of Aziz do not reasonably correspond

to the limitations of disassociating the wireless session identifier from the corresponding merchant session identifier. Specifically, Aziz' col. 2, l. 57-67 discusses session resumption using the agreed upon keys from a previous session. Thus, there is no apparent disassociating as claimed. Also, Aziz' col. 6, l. 45-55 apparently discusses the workload on the Aziz' relay in handling new handshake sessions and handshake session resumption. Again, there is no apparent correspondence to the claim limitations.

Claim 9 depends from claim 8 and is not shown to be unpatentable for at least the reasons set forth above.

The rejection of claims 6-9 over the Aziz-Sparks combination should be reversed because the allegation that the generally cited teachings of the Aziz-Sparks combination suggest the claim limitations is clearly in error, and the alleged motivation for making the combination does not support a *prima facie* case of obviousness.

Conclusion

In view of the above, Appellants submit that the rejections are improper, the claimed invention is patentable, and that the rejections of claims 1-13 should be reversed. Appellants respectfully request reversal of the rejections as applied to the appealed claims and allowance of the entire application.

Respectfully submitted,

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